

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:20cr44-MHT
)	(WO)
TIFFANY CULLIVER FRANKLIN)	

ORDER

This cause is before the court on the joint motion of defendant Tiffany Culliver Franklin and the government to continue trial. For the reasons set forth below, the court finds that jury selection and trial, now set for October 19, 2020, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the

defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence," § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Franklin in a speedy trial. Both parties represent that they need more time to

prepare for the trial, in part due to conflicts in the schedules of counsel for both Franklin and the government. Franklin has agreed to a continuance, expressly waiving her speedy trial right and asking the court to grant the continuance. There is no indication of a lack of due diligence on the part of either defense counsel or the attorney for the government. The court finds that a continuance is necessary in order to allow sufficient time for the parties to prepare for trial.

Accordingly, it is ORDERED as follows:

(1) The joint motion to continue trial (doc. no. 27) is granted.

(2) The jury selection and trial, now set for October 19, 2020, are reset for the term of court beginning on December 7, 2020, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

The United States Magistrate Judge shall conduct a pretrial conference prior to the December trial term.

DONE, this the 25th day of September, 2020.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE